

**The Virginia Indigent Defense Commission
Commission Meeting
1604 Santa Rosa Road
Richmond, Virginia 23229
May 23, 2007**

The meeting was called to order at 11:10am by Chair Jo-Ann Wallace. Other Commission members in attendance were Judge Alan Rosenblatt, Judge Edward Hanson, Senator Frederick Quayle, Alex Levay, Karl Doss (designee for Karl Hade), Carmen Williams, Maria Jankowski, Steve Benjamin, David Walker, Professor Robert Shepherd, and James Towey (designee for Delegate Dave Albo). Administrative staff present included Laura Still, Carlos Hopkins, Diane Pearson, Executive Director David Johnson; Deputy Director DJ Geiger, and Guy Horsley from the Attorney General's office.

Professor Shepherd made a motion to approve the agenda.

Judge Rosenblatt seconded the motion.

The motion carried.

The first item on the agenda is to approve two sets of meeting minutes.

Alex Levay made a motion to approve the March 19th, 2007 meeting minutes and the April 17th, 2007 emergency teleconference meeting minutes.

Judge Hanson seconded the motion.

The motion carried.

The next item on the agenda is projects review.

Mr. Johnson reviewed the completed projects for 2006. The Standards of Practice, a huge project has been completed. The Policies and Procedures manual, another big project, has also been completed. The Commission adopted Budget Policies and Procedures which have been used for two budget cycles. In our first year, we used projected savings from turnover and vacancy to give salary increases in addition to what state employees were receiving. We gave out the retention bonuses to try and slow down the turnover problem. We had thirty-two new positions allocated in 2006, which we distributed to all the offices and, in many cases promoted employees in one office and moved positions around.

We have continued and expanded The Boot Camp program, which Karl Doss started. We're expecting seventy people at our Boot Camp this year.

The annual management training of the public defenders has been renewed; we hadn't done it for a couple years. We're trying to provide consistent training and management for the public defenders.

The certification training has been a huge, ongoing project.

The annual report, which we're required to do, was prepared and submitted.

We hired a part-time lease administrator, Rebecca Norris, who has been terrific in helping us comply with executive order 75, and in keeping us straight with the Department of Real Estate Services.

We started an office manager training conference which takes a day and a half and is vital to what we have going on.

This past year, 2007, we requested and received increases for all the public defender employees that go into effect November 25th with thirteen percent increases and up to twenty-eight percent for some of the capital positions. The impact has been immediate. The public defenders have received a completely different response then what they've received in the past. The capital defenders are euphoric.

We have received twenty-six new positions. We have a paid internship program that the Commission approved. We will have thirty-five paid interns in the offices this summer. There's a chart that shows that we've filled all those positions.

We put four legislative proposals to the General Assembly, with the Commission's approval. All will become law July 1, 2007.

We put together an appellate workgroup and the Commission approved the appellate policy developed by the workgroup. We held two trainings for all of the support staff and attorneys who work with appeals.

We did a bid proposal for the caseload study. A successful bid was awarded and accepted. There will be a report on that soon. The long-awaited caseload study will be underway soon.

One of our duties is to provide training and with Carlos' leadership, we're building on Karl Doss's program and accomplishments. The recertification continues. We've instituted new attorney training.

Mr. Johnson continued with ARMICS, which is the incredibly complex state mandated program for all agencies. He went to the training and received 128 pages of instructions and requirements. We contracted with John Vance who was the fiscal director at the office of the Attorney General. He put together a plan for us but was hired away. We're looking for someone to complete that work for us.

He reported that the Arlington Public Defender office is in permanent space after 2-1/2 years. The county of Arlington has agreed and already made the first payment to contribute \$15,000 a year towards the rent. They are now within walking distance to the court house.

With the permission of the Commission we've developed a legislative policy. Part of that policy includes a way for the public defenders to tell us their ideas for legislative reform. Ms. Geiger has put together a form for that.

We feel really good about 2006 and 2007 completed projects. The part that is a little worrisome is what we have coming up and still pending.

Standards of Practice Enforcement is a big piece. The first meeting for the caseload study steering committee is scheduled for June 5th. The Strategic and six year plans, for which you'll receive a separate report, are being developed, and ARMICS is an on-going project that will

take until next March to complete. As usual we have the statutory requirement to file our annual report. We'll be having our biggest Boot Camp ever in July. The Management Retreat Training will be in Hampton this year.

This summer we're putting together a "How-To" manual for the public defenders and their office managers, which will be a big project. It's something that would've been very helpful to me as a public defender. We hope to have it to them in time for the management training in September. It will be a great resource for them.

We'll be presenting to the Commission our plan for the new positions. The budgeting process continues. We are required, in receiving additional funds, to present a compensation plan to the Commission. We will be doing so at the August meeting. The mileage reimbursement plan is a big issue with the cost of mileage. We will address that at a later meeting. The APA audit is ongoing and it's much more detailed than last year's.

The capital defender offices actually had a couple of attorneys on their staff who were not capital qualified, the reason being, they couldn't get anyone to apply who was capital qualified. They under-filled entry level positions in hopes of getting them qualified. Things are changing in November because of the pay raises. I met with the capital defenders and told them that we can't justify paying people who are not capital qualified this kind of money. They've come up with specific plans for a couple lawyers involved, accelerating the process with some training.

There was discussion about qualifications and entry level positions and replacing people who aren't qualified. If people can't become qualified to do capital work they will not be able to continue to work in a capital defender office. They will be kept at a normal assistant public defender salary until they're qualified to do capital work.

There will be annual changes to the Policies and Procedures Handbook. The website redesign is something that is ongoing. The website's going to be a focus of the Standards of Practice enforcement piece, and we'll be working towards developing our legislative agenda for the coming year.

That's the full plate that we have. We feel really good about what we've accomplished and know we still have a lot of work to do.

The next item on the agenda is a report from the executive committee, they met earlier this morning.

Judge Hanson moved that the executive committee recommend to the full commission that Professor Shepherd be nominated and approved as chairman and Judge Rosenblatt be approved as vice chairman effective July 1, 2007.

Alex Levay seconded the motion.

The motion carried unanimously.

Judge Hanson reported that the executive committee move to present to the full commission committee membership as of July 1, 2007.

No second is required.

The motion carried unanimously.

Mr. Johnson said the auditors have questioned where authority lies for certain things and the way the committees were organized and the authority of committees. We need this authority detailed in one place in the minutes. We could put it as an addendum to the minutes. We asked that the executive committee recommend to the full Commission that this be adopted as a resolution.

Judge Hanson advised that the executive committee move to recommend the full Commission the authority of committees be an addendum to the minutes.

No second is required.

The motion carried.

The next item on the agenda is the budget.

Mr. Johnson reported that the first item is the distribution of new positions. Of the twenty-six new positions, ten were designated. Two were designated for the standards of enforcement and eight positions were designated for capital offices. The sixteen remaining were non-specified positions. We surveyed the public defenders regarding positions they needed, justification for those positions, and accommodations for those positions.

Mr. Johnson went on to say there was some juggling of positions among the offices which would impact an additional four offices at no additional cost. In addition to that there are two positions for the standards of practice enforcement which was spelled out in the appropriations act language and we're hiring an attorney and a support staff person. We completed the interviews for the attorney position yesterday and will make an offer today which hopefully will be accepted. That person will be involved in selecting their administrative support person. The goal is to have them onboard here July 10th.

The remaining eight positions go to the capital offices with a new attorney position for each capital office and an investigator/mitigation specialist position for each office. Those positions are funded for July 1st and are funded at the old levels until November when they move to the new levels. Being able to advertise the raise in November has really helped with recruitment.

Alex Levay asked how much the Standards of Practice attorney will make. Mr. Johnson replied \$60,000 per year and will be based in this office. We were given \$200,000 for the two positions which will include the space we need for them, start up costs, and equipment.

Mr. Johnson added that DRS redid our questionnaire which is the formula for executive order 75 for office space and it turned out we were short of what we're entitled to in this office. They were sure we could get an additional 3,500 square feet upstairs. We're getting 2,100 usable square feet, which will give us a large training room that will seat forty people. Currently we need to go off-site for trainings.

This will give us a combination hearing/training room which can also house some of the staff.

One of the problems the private bar is experiencing is meeting the requirement of juvenile training hours for recertification. We want to be able to produce quality trainings. We've

talked with Virginia CLE about getting them on-line. Our method now is to pack up the car and drive around the state. Carlos and Lori spent two days in Arlington recently and only six people showed up.

Mr. Benjamin voiced some concerns regarding on-line training.

Mr. Johnson responded that there are checkpoints. He also advised that there are people who attend the live CLE's and don't pay attention.

Judge Rosenblatt stated that the legislature enacted these requirements that all lawyers have to get recertified, they aren't our requirements. Maybe we want to get the legislature to change some of these requirements.

Mr. Johnson reiterated that with the on-line instructions he thinks we will be able to do quality training. Carlos is getting a very small percentage of the private bar reacting irrationally to the recertification training requirements. There's not much we can do except offer the training.

With the standards of practice, we now have a mechanism to get them off the list. While there is some grumbling about the standards of practice and the enforcement piece, the reaction from the lawyers who were on the standards of practice committee was that it's about time. It's about time that we can get the few off the list that don't care about the clients and have no business doing the work.

This isn't a perfect solution but at this point we just can't do the road show anymore.

Ms. Wallace reported that the budget committee met May 14th and the committee approved the allocation of the new positions.

Judge Rosenblatt made a motion that the Commission approve the allocation of new positions.

Mr. Levay seconded the motion.

The motion carried.

Mr. Johnson acknowledged two visitors. Reginald Thompson, our analyst at the Department of Planning and Budget, and Michael Jay who is on the staff of the House Appropriations committee. Both have been very helpful to us in the past, especially this last session.

The next item on the agenda is the budget.

Mr. Johnson said that Ms. Still has put together a budget that is broken down by office. The budget process that was approved by the Commission last year required some meaningful input from the public defenders for the first time. Last year we got some input and this year we got even better input. We had a time line set up where they were to respond to us with specific requests. One of the things we want to work toward with the public defenders is for them to really know their budget and actively manage it. This is part of the education process which is to have them look at what they're spending, move money within their budgets, make adjustments, and look at their previous budgets.

He went on to say that one area that's a little different is an item called skilled services which is under administration. It's a line item of \$153,000, \$90,000 of which was allocated at a previous meeting to go to the bar code project. That project is not ripe outside our agency yet. We moved the \$90,000 to meet two very specific needs. \$3 million of our carryforward money being unallocated could not otherwise be met. \$60,000 is going to fund the caseload study, which will be paid over a period of six installments. \$30,000 of it has been set aside for the ARMICS project. We don't have the man-hours or the expertise to do everything the state is requiring of us so there are skilled services that we will purchase with those funds. We wouldn't be able to use that money for the bar code project this year so this seemed to make sense for us and helped to balance the budget.

A question was asked about SEAT management.

Ms. Still explained that SEAT management is where state agencies are required to turn over IT functions to the Department of Information Technology (VITA). They assumed total responsibility for it in certain state agencies and all state agencies in the executive branch. This was part of the charge for them taking over that responsibility.

Mr. Johnson added that they tell you they're going to take over some of your functions and then charge you for it.

Mr. Walker asked about an item in the budget called attorney services office expense allowance.

Ms. Still replied that it's for part time lawyers. They get a \$2,500 year office allowance and only some offices have part-time attorneys.

Mr. Walker asked about subsistence in lodging which isn't consistent with the size of the offices.

Mr. Johnson explained that it's for some of the more remote offices, when they travel across the state they're allotted an extra night's stay.

Ms. Still added that the employee training and travel expense is where much of the subsistence in lodging expense would be budgeted. That's just the way the accounting structure is set up.

There was more discussion regarding the budget categories and being consistent with everyone using the correct category.

Mr. Johnson added that this year at the management training, we will take time to go through the budget line by line to make sure the public defenders know what each line means.

Judge Hanson advised the executive committee move to recommend to the full Commission the budget developed by the staff be approved.

Karl Doss seconded the motion.

The motion carried unanimously.

Another action item not on the agenda is the Executive Director's authority to rent office space and purchase furniture and equipment necessary for standards of practice enforcement, training, and meeting space, and his authority to make any necessary incidental expenses.

Alex Levay made a motion to give the Executive Director authority to rent office space and purchase furniture and equipment necessary for training and meeting space.

Mr. Walker seconded the motion.

The motion carried.

Judge Hanson moved that the Virginia Indigent Defense Commission convene in closed session to discuss personnel issues pursuant to the personnel exemption contained in §2.2-3711(A) (1) of the code of Virginia.

This meeting will be attended only by members of the Commission, however, pursuant to §2.2-37(12) (F) of the code of Virginia, the Commission also requests the attendance of the Executive Director, David Johnson and the Deputy Executive Director, DJ Geiger because it is reasonable to believe that their presence will aid the Commission in its consideration of the matters which are the subjects of the closed session.

Professor Shepherd seconded the motion.

The motion carried.

The meeting adjourned to closed session at 12:00 pm.

After reconvening into open session at 12:45pm, Judge Hanson moved for a roll call vote asking that each member certify that to the best of his or her knowledge, during the closed session, the Commission heard, discussed, or considered only public business matters that were lawfully exempted from open meeting requirements under the Freedom of Information Act and were identified in the motion by which the closed session was convened.

Each member so certified.

The next item on the agenda is the VITA Standard Compliance.

Ms. Geiger reported that there are two tracks for the IT requirement. We're going to ask the Commission that Mr. Johnson be given specific authority to comply with some of the requirements which will require day-to-day decisions. In 2006 the Auditor of Public Accounts was asked to review IT databases around the state. They determined that all databases are incorporated into a computer attached to a network. The scope of their review needed to be all IT security for agencies throughout the Commonwealth, which was broadened by the General Assembly.

The APA sent surveys to all agencies, including local governments to figure out their infrastructure and the security of their infrastructure and data. They analyzed the data and found that very few of the local governments and agencies had what they termed adequate security measures. The IDC was not one of those few determined to be very adequate.

The second track began in 2006. VITA circulated what it thought were security policies and guidelines that needed to be implemented throughout the state. The APA had given its findings and determinations as to what its best practices should be. The APA is more stringent and requires a few additional requirements than does VITA.

We comply with some of the requirements on both lists in our general practice but we don't have the documentation to show we do. One of the big areas of work ahead is taking what we do everyday and what we've provided, putting that into actual draft language, and putting it together as far as policies and protocols.

The VITA policy actually requires the Commission or the agency head take certain steps. That's in the second paragraph a. through j.

The way our statute is written, the Full Commission would be the agency head, based on their definitions. Some of the day-to-day operations fall under Mr. Ernouf's job description. What we're asking is for the Commission to delegate to Mr. Johnson the authority to put the requirements of VITA into place here and to follow the VITA guidelines.

There was discussion about money and how much this will cost. Commission members were advised that no funding had been appropriated for the projects.

Ms. Geiger went on to say that this also feeds into the ARMICS requirements and there might be a need for outside consultation or contractors. It hasn't been determined how much it will cost or when it will fall.

There are dual tracks, the APA (we realize we're not going to meet all of their standards), and the VITA standards (we're meeting more of those, we just don't have it written down).

ARMICS, VITA, and the APA are all merging on certain points so there is overlap. Day-to-day as these things come up, we can look at them and try to see what we need to do.

There was discussion about how to pay for all of these extra projects. In prior years carryforward money was used but is no longer available. Part of the problem is lack of key people in the administrative office.

Mr. Johnson added that our training and IT people are not traditionally administrative staff. If you take those six people out of our office we would have very few people here. Michael Maul of the Department of Planning and Budget had commented that he got worried when an agency had an administrative staff budget that approaches ten percent of the agency's budget. Our's is three and a half percent.

Ms. Geiger went on to say that the way the policy is structured, the agency is supposed to designate either someone in the agency or an outside contractor to oversee security because your IT Director should not be overseeing security. She's not sure how other agencies are going to handle it. They want you to have a whole other group of people who are looking at and questioning your security methods that aren't in your IT department. The problem is that we don't have the staff to do that.

There was discussion about strategic planning and infrastructure for the current project list, and the amount of paperwork involved for human resources and benefits because of the turnover in personnel. Mr. Johnson added that we don't have an HR professional for legal questions that come in from the public defender offices.

With the audit process, the subject has come up about doing a study on what the administrative office should look like and what positions should be in place based on the size of the agency along with the transactions performed and services provided.

Mr. Walker suggested finding another agency about the same size to see what they have that's well established.

There was discussion about finding someone with expertise in this area and mapping out the strategic plan or hiring an outside consultant, or possibly finding someone in another agency with that expertise. We need to make sure that we have the administrative staff to do this work efficiently and effectively. Ms. Wallace suggested making it part of the strategic plan.

Ms. Geiger noted that the Strategic Plan must be completed by mid June. We have to look at the administrative piece because without that piece we can't accomplish the goals we set for the Commission.

She went on to say that we need to figure out what needs to be contracted out and what can be done in the administrative office which could probably be part of the overall administrative infrastructure.

Judge Rosenblatt suggested getting the public defenders involved and Mr. Johnson agreed.

Mr. Walker made a motion to approve the VITA standards and to create a structural flow chart of personnel the Executive Director thinks are necessary to adequately run the administrative office.

Judge Rosenblatt made a motion that the Executive Director (or in the absence of the Executive Director, the Deputy Executive Director) shall have the authority to carry out the requirements of the Information Technology Security Policy (ITSP), the IT Security Standards, and the IT Security Audit Standard in accordance with the IT risk management guidelines; and

The Executive Director (or in the absence of the Executive Director, the Deputy Executive Director) shall have the authority to apply for exceptions to the requirements of the ITSP and make adjustments in the compliance with the requirements when in his or her judgment fiscal or staff resources make it necessary to do so.

Mr. Walker withdrew his motion to approve the VITA standard and seconded the motion made by Judge Rosenblatt.

Judge Rosenblatt's motion carried.

The next item on the agenda is an update on the Standards of Practice Enforcement.

Mr. Johnson reported that the Standards of Practice Enforcement workgroup had their first meeting April 27th with another meeting scheduled for June 6th. At the first meeting we came up with a basic outline of how we thought an enforcement piece would work. This incorporates the two employees we will be adding, including an attorney and a support staff person. We still have a lot of unanswered questions and have been corresponding via mail and email. When we meet again in June we hope to have a specific proposal for the Commission that we'll send out August 1st and hope to present to the Commission at the meeting August 16th this will likely become effective September 1st. (We will have our new staff members on board in July).

We think we have a general concept to move forward with but we still have a lot of unresolved issues. Mr. Johnson went on to say that he would like it to be as limited and specific as possible.

There was discussion on filing complaints and if there are complaints about court-appointed attorneys or public defenders the Commission should know about it.

Judge Rosenblatt suggested having some non-IDC people on the panel. Lawyers perhaps recommended by the Virginia State Bar.

Mr. Johnson replied that it's difficult getting groups of attorneys together to meet.

Mr. Levay said that if there is a complaint and it has merit but doesn't involve a public defender or a court-appointed attorney but it constitutes an ethical violation, there should be some mechanism stated that it then get referred to the Virginia State Bar.

There was discussion about how this will be received by the private bar and that this is not an ethics judgment. The basics are about complying with the standards of practice.

Mr. Johnson went on to say that he's worried about judges looking to us to make the decision to take lawyers off the list. Several of the complaints from the chief prosecutors have been against some of our best public defender offices.

The next item on the agenda is the training update.

Mr. Johnson reported the attire and attendance at the conference in March were much improved over last year.

The certification program has been ongoing. At this point there are 1,900 lawyers on the court-appointed list. We're at the point where recertification is coming up. He pointed out the up-coming training schedule and reported that the office manager's training that we had here in May went extremely well. The support staff got involved in various areas and put together the presentations with power point and the response from the office managers was amazing, every evaluation sheet had an excellent or very good rating.

Carlos Hopkins is putting together a plan to get all of the public defender offices and all their attorneys recertified on the same date every year.

Mr. Johnson went on to say one of the issues with the recertification is people getting their mandatory training. Substitute judges are required to get a lot of training. Their question is, "does our training as substitute judges, which involves criminal law, count?" We believe that we can accept it and we wanted to bring it to the attention of the Commission that we're planning to accept this for purposes of our training. What the Bar allows for is the people who do the training, who put on the CLE programs, can get up to four hours credit. There's preparation and research involved. The requests have come in for the people who are doing the training; do we recognize it as the same four to one. With the Commission's permission we thought that would be a good idea.

Mr. Walker made a motion for the approval to calculate required CLE hours for recertification on a 4-1 (four hours of preparation for every hour taught) basis for court appointed attorneys teaching criminal or criminal juvenile CLE courses.

Judge Hanson seconded the motion.

Judge Rosenblatt opposed the vote as he believes in delegating the authority to the Executive Director and the Deputy Director.

Judge Rosenblatt withdrew his opposition.

The motion carried unanimously.

Mr. Johnson raised one other issue, that when the requirements were initially set up for certification there was a piece that involved sitting second chair, which has become a problem for a lot of lawyers. If you are not qualified to be appointed, how can you be appointed second chair. So what we're looking into is have attorneys observe. What other states do for new lawyers is to require a certain number of hours of observation (but they don't require the training we require). It's a barrier right now for people wanting to get on the list to start taking cases. You can only be second chair if you're appointed by the court and the court can't appoint you if you're not on the list.

There was discussion about second chair, requirements for sitting second chair, observing, and public defenders training co-counsel (sitting second chair) in their cases.

Mr. Hopkins added that the requirement for new attorneys with no prior experience is to sit as co-counsel for ten hours before the new attorney can be added to the felony or juvenile court-appointed list (six hours of criminal CLE for juvenile appointments and an additional four hours related to juvenile matters.) Once the new attorneys have the ten hours, they also need an additional four cases in which they served as co-counsel. The only difference between juvenile and felony is they don't need the additional four hours of certification training.

The discussion continued with co-counsel being described as actively involved in the case beyond observation, which is different than mentoring. One lawyer will be the lead attorney and the others, although they are co-counsel, they are second, third, or fourth chair.

No consensus was reached on the issue of observation credit.

Mr. Johnson reminded everyone that the Commission had approved the summer intern program and there is a list of the thirty-five paid interns in each binder. There a lot of interns that are being paid by outside sources also. He commented that this is big for us to have paid interns for all the offices.

The next item on the agenda is the strategic plan.

Ms. Geiger reported that the working group met and that Mr. Thompson provided the group with an overview of the strategic planning process, why we do it, what the ingredients are, and how it came about. Mr. Maul was also able to join us for that meeting and provided us with some very valuable insight and guidance on how the strategic planning process should work and what it's meant to do.

Ms. Geiger pointed out that there is a proposal in the binder along with some slides from Mr. Thompson's presentation, some of which are historical. She explained that the strategic plan is basically a road map, where we want the agency to go and how to achieve that. The mission, visions, and goals are the broader concepts. The next step is how to accomplish those goals. (What are the day to day operational goals? What are the programs that go into it? How does the administrative office have to be structured and function to help the field offices meet their ultimate goal of client service, which is good quality legal representation for the indigent?)

We're asking the Commission to evaluate if we are headed in the right direction with these broad concepts. We're seeking the Commission's permission to fill in the detail that's needed to submit the strategic plan to the Department of Planning and Budget in mid-June.

Ms. Geiger added that one of the guiding pieces of advice we got from Mr. Thompson and Mr. Maul was that we don't want the mission, visions, and goals to be too detailed. We can change them anytime we want. If there's a point where something changes in the agency or something in the focus changes or the legislation changes, we can always go back and refine, everything is subject to annual review or bi-annual review.

We're looking for some guidance from the Commission. We can always add, modify, or delete anything that's in here now.

Mr. Walker made a motion to approve the strategic plan.

Senator Quayle seconded the motion.

The motion carried.

Judge Hanson made a motion for the Commission to request staff to explore the area of adequate staffing to accomplish the goals and objectives of the strategic plan and the administrative office function.

Senator Quayle seconded the motion.

The motion carried.

The next item on the agenda is the caseload study.

Ms. Geiger reported that the caseload study has been awarded to the National Center for State Courts. The low bidder did not include all of the requirements that we requested in the study. The first meeting for the steering committee is set for June 5th. What they're going to do is introduce the steering committee to each of the six phases and the National Center and its prior studies. The National Center asked us what we're looking for, which is quality and experience and an idea of the costs based on limitations, as to where our workload/caseload should be.

The committee members we have so far include, Cyril Miller (Karl Hade's designee, who has done caseload work previously), three public defenders (Vikram Kapil, Allen Bareford, and Pete Legler), the Attorney General is sending Greg Franklin, (a former public defender), Senate Courts has designated Senator McDougle and Jim McLemore who is a court-appointed attorney. We're still awaiting the Commonwealth Attorneys Services Council response and a House Courts Crime Commission designee. We would also like one or two interested Commission members to participate as well.

The last page of the proposal shows the project time-line. Each phase takes several months to complete. The steering committee is basically serving as a guide. They will be telling the contractor what we want from each phase, receiving the data and reports, and giving new instruction to them as they start each phase. There will be six to ten meetings over eighteen months.

Judge Hanson volunteered to be on the committee.

The next item on the agenda is other business.

The first item is how to address the issue of qualifications for death penalty standards.

Judge Rosenblatt said that during the closed session there was discussion about a problem that had developed in a jurisdiction involving a lawyer. The question is how to address complaints like that. The statute leaves it up to the Supreme Court and the IDC to maintain a list of attorneys, therefore it would be appropriate to meet with the Supreme Court and come up with some kind of mechanism for dealing with these kinds of complaints since we anticipate that the number may increase.

Judge Rosenblatt made a motion that the Executive Director or his designee begin discussing with the Supreme Court on how this particular statutory

requirement should be addressed by both bodies and report back to the Commission.

Mr. Walker seconded the motion.

The motion carried unanimously.

Judge Rosenblatt suggested that there are several statutes that may need to be reviewed. This last one we just talked about is a good example because we're not really sure what they had in mind. The certifying of lawyers, where the statute uses the word co-counsel, maybe that's not the best word to use.

Ms. Geiger said there are two Commission meetings remaining this year and in order to meet the pre-file drafting deadline for legislation, we will want to propose legislative items to the Commission at the August meeting. We'll be looking at those over the summer.

Judge Hanson recognized that this is Alex Levay's last meeting with the Commission. He's served three years and has proven to be a valuable force by providing the views of the private bar on indigent defense. He's going to continue to serve as chairman of the Indigent Defense Task Force for the Virginia State Bar.

Mr. Levay thanked everyone and added that although we had a rocky start, we've come a long way. He leaves with the knowledge that we're in good hands. He enjoyed his time with the Commission.

Judge Hanson added that the Commission owes a lot to Ms. Wallace. Through that rocky start, she was always calm, dignified but disciplined, and she has a way of putting other people's often disjointed thoughts into words and phrases that can actually make up a cogent motion. She's leaving the chairmanship but she's not leaving the Commission and for that we're grateful. We're also very grateful for her service.

Ms. Wallace thanked Judge Hanson and everyone. She said that as her last role in this position she asked for a motion to adjourn.

Mr. Johnson added that July 1st will be Melinda Douglas' twentieth anniversary as public defender in Alexandria and suggested writing a letter on behalf of the Commission, thanking her.

He had one more item. The VBA has invited him to their conference at the Homestead. He will be a speaker and the VBA will cover his hotel room. He wanted to let the Commission know. He's also planning to go to the NLADA conference in Tucson in the fall.

Judge Rosenblatt suggested that Mr. Johnson go to these and additional conferences to tell what is a pretty good story in Virginia that needs telling. Mr. Johnson is a good person to do that. Also it's a good idea to go to some of these conferences to find out what's going on in other parts of the country. That's one of the reasons he hopes Ms. Wallace decides to stay with us because we won't get that kind of information if we lose people like Ms. Wallace.

Mr. Benjamin also suggested that Mr. Johnson attend NACDL conferences. It's important to have that presence at those meetings. There are four meetings a year with the August meeting being the annual meeting.

Ms. Wallace agreed with that and added that the NLADA does assessments of offices. One of the things they see is the standard is set by practice that exists without reference to what is happening in other jurisdictions and it's invaluable to broaden your horizons.

Ms. Wallace continued by saying there is an article in the NACDL Champion about the reform in indigent defense, the progress that's been made, and the challenges we still have ahead of us.

Mr. Benjamin added that the article includes several people, including Senator Stolle.

Judge Hanson reminded everyone that it's Senator Stolle's last day and we wouldn't be where we are without him and there is no other person in this Commonwealth who could've done what he has done to make this Commission what it is. We owe him a debt of gratitude; he has been right at every turn.

Mr. Benjamin then added that it was Judge Hanson and Senator Stolle who came up with the idea of this Commission so they both deserve credit. The best thanks you can give Senator Stolle is to continue to operate as we've begun operating. This is an incredible Commission with very talented people and it's running as he and you have envisioned it.

Mr. Levay made a motion to adjourn.

Mr. Walker seconded the motion.

The motion carried unanimously.

Respectively Submitted:

Approved By:

Diane Z. Pearson, Administrative Assistant

David J. Johnson, Executive Director